

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 DONALD COLE BURCHETT, )

9 Petitioner, )

10 v. )

11 SPOKANE COUNTY SHERIFF, )

12 Respondent. )  
\_\_\_\_\_)

CASE NO. C08-1406-RAJ-BAT

ORDER DISMISSING § 2254 PETITION

13 The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28  
14 U.S.C. § 2254, the Report and Recommendation of the Honorable Brian A. Tsuchida, United States  
15 Magistrate Judge, petitioner's objections thereto, and the balance of the record, does hereby find and  
16 ORDER:


17 (1) The Court adopts the Report and Recommendation.

18 (2) Petitioner's petition for a writ of habeas corpus and this action are DISMISSED  
19 without prejudice. *See* 28 U.S.C. § 2244(b)(3)(A).

20 (3) Petitioner's application for leave to proceed *in forma pauperis* is DENIED as moot.

21 (4) The Clerk is directed to send a copy of this Order to petitioner and to Judge Tsuchida.

22 DATED this 21<sup>st</sup> day of November, 2008.

23   
24 The Honorable Richard A. Jones  
25 United States District Judge  
26